

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE: 10/17/19

UNITED STATES OF AMERICA

- v. -

RAYMOND CHRISTIAN, et al.,

Defendants.

ORDER

12 Cr. 626 (ER)

Ramos, D.J.:

Defendants Raymond Christian, Glenn Thomas and Tyrell Whitaker were found guilty after a trial held in August 2014 of Counts One, Two, Four and Five of the above-captioned indictment. Those Counts charged them with conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951; Hobbs Act robbery, in violation of 18 U.S.C. § 1951; murder through the use of a firearm relating to a crime of violence, in violation of 18 U.S.C. § 924(j); and discharge of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. §§ 2 and 924(c)(1)(A), respectively. On August 6, 2015, the Court denied defendants' post trial motions for acquittal or for a new trial. Doc. 243. Thereafter, the defendants filed supplemental motions for acquittal or for a new trial primarily on the basis of a series of subsequently-decided Second Circuit and Supreme Court cases addressing: (1) the definition of a "crime of violence" under 18 U.S.C. § 924(c) and (j); and (2) whether the "risk of force" clause is unconstitutionally vague. *See United States v. Davis*, 139 S. Ct. 2319 (2019); *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018); *Johnson v. United States*, 135 S. Ct. 2551 (2015); *United States v. Barrett*, 903 F.3d 166 (2d Cir. 2018); *United States v. Hill*, 832 F.3d 135 (2d Cir. 2016).¹ The defendants also argue

¹ The defendants requested adjournments of their sentencings pending determination of these cases.


that Counts Four and Five should be dismissed because the Court's jury instructions on aiding and abetting the possession and use of a firearm were incorrect under *Rosemond v. United States*, 134 S. Ct. 1240 (2014), and that Counts Four and Five are multiplicitous. Defendant Christian separately requests that the DNA material recovered from the ski mask he wore during the robbery and murder of Jeffrey Henry be made available, and that a hearing be held concerning a photograph taken during a December 17, 2010 video-taped interview of Christian.

For the reasons set forth in an opinion to be filed separately and prior to sentencing, the motions are DENIED. Sentencing of defendant Christian will take place on December 18, 2019 at 10:00 am. Sentencing of defendant Thomas will take place on December 19, 2019 at 11:00 am. Sentencing of Defendant Whitaker will take place on December 20, 2019 at 10:00 am.

The Clerk of Court is respectfully directed to terminate the motions, Docs. 284, 289, 323, 338 and 352.

It is SO ORDERED.

Dated: October 17, 2019
New York, New York



Edgardo Ramos, U.S.D.J.